IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

Crl.MC.No. 7079 of 2002(D)

(C.C. NO. 353/2000 OF THE COURT OF JUDICIAL MAGISTRAE OF FIRST CLASS, KANJIRAPALLY).

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PETITIONERS/ACCUSED NOS.1 AND 4:

1. **JAYAN, S/O. SIVARAMAN, KALLOTHUMPADIKKAL HOUSE, NADAKKAVU, KOZHIKODE.**
2. **MANOJ, S/O. SIVARAMAN, KALLOTHUMPADIKKAL HOUSE, NADAKKAVU, KOZHIKODE.**

BY ADV. SRI.SUNNY MATHEW.

RESPONDENTS/COMPLAINANT:

1. **THE SUB INSPECTOR OF POLICE, PULIKKATHODE POLICE STATION, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

***ADDL.R2. GEORGE, AGED 41 YEARS, S/O. CHACKO, MAMBUZHAKKAL HOUSE, MATTAKKARA, KOTTAYAM DISTRICT.**

***ADDL. 2ND RESPONDENT IS IMPLEADED AS PER ORDER DATED 29/11/05 ON CRL.M.A. 14483/05.**

BY PUBLIC PROSECUTOR SRI. C.K. SURESH.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 14/09/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. NO. 5427/2002 IN CRL.M.C. NO. 7079/2002

DISMISSED

14/09/2007. **SD/- K.R.UDAYABHANU, JUDGE.**

//TRUE COPY//

prv.

K.R.UDAYABHANU, J

Crl.M.C.No.7079 of 2002

Dated this the 14th day of September, 2007

O R D E R

The petitioners are the accused 1 and 4 in C.C.No.353/2000 in the court of Judicial First Class Magistrate, Kanjirappally with respect to the offences under Sections 406, 420 and 465 read with Section 34 of IPC. The allegation is related to the transaction of a 1991 model Tata 407 lorry. According to the complainant, the vehicle was agreed to be purchased by one Mohan Das undertaking that the hire amount due to the finance company shall be paid. But he did not remit the hire purchase amount and sold it to another person. It is contended that the defacto complainant has ceased to be the owner of the vehicle long before. On a consideration of the documents produced, I find that this is not a fit case to invoke Section 482 of Crl.P.C. as determination of disputed facts are required. All the same, the petitioners may raise the above contentions before the court below and file a discharge application which shall be considered by the court below and dispose of the case on merits. The

counsel for the petitioners has sought for direction to the court below granting exemption from personal appearance. He submitted that the petitioners are residing at Kozhikode and that they will be put to difficulties to travel to Kanjirappally every time the case is posted. The petitioner may apply before the court below mentioning the reasons for the exemption and the court below shall consider the same.

The Crl.M.C. is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl